

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

HEATHER SMITH, individually and on)
behalf of all others similarly situated,)
)
)
Plaintiff,)
) Case No. 5:23-cv-00559-D
vs.)
)
WHALECO, INC. d/b/a TEMU,)
)
Defendant.)

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE A REPLY TO PLAINTIFF'S
RESPONSE IN OPPOSITION TO MOTION TO COMPEL ARBITRATION**

Pursuant to Federal Rule of Civil Procedure 6(b)(1) and Local Rule 7.1 (h) and (k), the Defendant, Whaleco, Inc. d/b/a TEMU (“TEMU”), files this motion for an extension of time to file a Reply to Plaintiff’s Response in Opposition to the Motion to Compel Arbitration (Doc. No. 21) and states as follows:

1. On May 22, 2023, Plaintiff filed a putative class action against TEMU in the District Court of Oklahoma County, State of Oklahoma, alleging violations of Oklahoma’s Telephone Solicitation Act of 2022 (the “OTSA”), Okla. Stat. tit. 15 § 775C.1, *et seq.* Dkt. 1-1.
2. The summons and Complaint were served on TEMU on June 6, 2023.
3. On June 26, 2023, TEMU removed the action to this Court. Dkt. 1.
4. On July 25, 2023, TEMU filed its Motion to Compel Arbitration and Stay This Action (Doc. No. 10).
5. On September 28, 2023, Plaintiff filed her Opposition to Defendant’s Motion to Compel Arbitration (Doc. No. 21).

6. The deadline to file a Reply to Plaintiff's opposition is October 5, 2023, which is 7 days after Plaintiff filed her opposition.

7. TEMU is also defending another class action lawsuit in this Court in which the allegations are similar, there are identical arguments to compel arbitration, the response in opposition is identical, and the deadlines are the same. *See Valerie Eakins v. Whaleco, Inc. d/b/a TEMU*, United States District Court, Western District of Oklahoma, Case No. 5:23-cv-00560-J. Hence, TEMU has a deadline to file a reply in the other related lawsuit as well.

8. The undersigned is defending another unrelated lawsuit in another jurisdiction with an October 5 deadline that requires extensive briefing.

9. To allow TEMU to provide the Court with an appropriate brief on these nuanced and complex legal and factual issues, TEMU is requesting a 21-day extension (until October 26, 2023) to file a Reply.

10. Counsel for TEMU conferred with Plaintiff's counsel and requested an extension of time of twenty-one (21) days until October 26, 2023, to file the Reply. Plaintiff's counsel does not oppose the 21-day extension.

11. This is TEMU's first request for an extension of time to file a reply.

12. The extension will not affect any other deadlines.

13. TEMU has submitted a proposed order on this motion.

Wherefore, TEMU is respectfully requesting a 21-day extension, until October 26, to file a Reply to Plaintiff's Response in Opposition to the Motion to Compel Arbitration, and for such other relief that the Court deems appropriate.

Respectfully submitted,

/s/Robert A. Stines

Robert A. Stines (*pro hac vice*)
Florida Bar No. 78447
201 N. Franklin Street
Suite 3550
Tampa, Florida 33602
rstines@sgrlaw.com

John A. Burkhardt, OBA #1336
Email: john.burkhardt@schafferherring.com
Attorney for Defendant
SCHAFFER HERRING PLLC
7134 S. Yale, Ste. 300
Tulsa, OK 74136
Direct Line: (918) 856-5378
Facsimile: (918) 550-8106

CERTIFICATE OF ELECTRONIC SERVICE AND FILING

This is to certify that on October 3, 2023, I caused the foregoing instrument to be filed with the Clerk of the Court using the ECF System for filing, with electronic service to be made via CM/ECF to all counsel of record. To counsel's knowledge, there are no non-ECF registrants who are counsel in this case.

/s/Robert A. Stines

Robert A. Stines